

ELECTRONICALLY FILED

December 27, 2006

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Counsel for the Official Committee Of
 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:	)	BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED FUND, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10729-LBR
USA SECURITIES, LLC,	)	Chapter 11
Debtor.)	

Affects

- ☐ All Debtors
☐ USA Commercial Mortgage Co.
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed
☒ USA First Trust Deed Fund, LLC

Hearing

Date: January 31, 2007
 Time: 9:30 a.m.
 Place: Courtroom #1

**AMENDED NOTICE OF SECOND OMNIBUS OBJECTION OF THE OFFICIAL
 COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST
 DEED FUND, LLC TO MISFILED CLAIMS FILED BY MICHAEL BAGINSKI, JAMES
 J. LEE, ESQ., LAW OFFICES OF JAMES J. LEE, WILLIAM CHAD BERRY, RDJ
 INVESTMENTS, RICHARD N. ANDERSON TTE, RICHARD N. ANDERSON
 SEPARATE PROPERTY, CRAIG ZEGER SEP IRA, JAMES W. SHAW IRA, AND
 CURTIS R. & TERRI L. COLAGROSS (AFFECTS DEBTOR USA CAPITAL FIRST
 TRUST DEED FUND, LLC)**

1 **TO: MICHAEL BAGINSKI**
2 **JAMES J. LEE, ESQ. (on account of claims filed by JAMES J. LEE, ESQ. and LAW**
3 **OFFICES OF JAMES J. LEE)**
4 **WILLIAM CHAD BERRY**
5 **RICHARD N. ANDERSON (on account of claims filed by RDJ INVESTMENTS and**
6 **RICHARD N. ANDERSON TTE, RICHARD N. ANDERSON SEPARATE**
7 **PROPERTY)**
8 **CRAIG ZAGER (on account of the claim filed by CRAIG ZAGER SEP IRA)**
9 **JAMES W. SHAW (on account of the claim filed by JAMES W. SHAW IRA)**
10 **CURTIS R. & TERRI L. COLAGROSS**
11 **USA CAPITAL FIRST TRUST DEED FUND, LLC**
12 **U.S. TRUSTEE**
13 **ALL PARTIES IN INTEREST**

14 **PLEASE TAKE NOTICE** that on December 27, 2006, the "**Second Omnibus**
15 **Objection Of The Official Committee Of Equity Security Holders Of USA Capital First**
16 **Trust Deed Fund, LLC To Misfiled Claims**" (the "Objection") was filed by the Official
17 Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF
18 Committee"). Pursuant to the Objection, the FTDF Committee seeks the disallowance of certain
19 proofs of claim (the "Wrong Debtor Claims") on the grounds that such claims have been
20 erroneously filed against the USA Capital First Trust Deed Fund, LLC (the "FTDF") and that the
21 FTDF has no liability on account of such claims. By the Objection, the FTDF Committee does not
22 seek to prejudice the rights of any of the claimants who filed Wrong Debtor Claims (the
23 "Claimants") to recover from other Debtors in the Chapter 11 cases on account the liabilities
24 asserted in the Wrong Debtor Claims, nor does the FTDF Committee seek to prejudice the right of
25 Claimants to file proofs of claim that are based on outstanding debts that the FTDF may owe to
26 them. The Wrong Debtor Claims and the requested treatment of such claims by the FTDF
27 Committee are as follows:

FTDF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Proposed Disposition
121	James J. Lee, Esq.	November 9, 2006	\$200,000.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on litigation entitled USA Commercial Mortgage v. James J. Lee, Esq., Case No. A459840, Law Offices of James J. Lee v. Kreg Rowe, et al., Case No. A473664, and U.S.A. Commercial Mortgage Company v. James J. Lee, Esq., Case No. A488769. The FTDF is not a party to any of these cases.	Disallow in its entirety.
122	Law Offices of James J. Lee	November 9, 2006	\$200,000.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on litigation entitled USA Commercial Mortgage v. James J. Lee, Esq., Case No. A459840, Law Offices of James J. Lee v. Kreg Rowe, et al., Case No. A473664, and U.S.A. Commercial Mortgage Company v. James J. Lee, Esq., Case No. A488769. The FTDF is not a party to any of these cases. This claim is also duplicative of claim no. 121.	Disallow in its entirety.

FTDF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Proposed Disposition
126	William Chad Berry	November 2, 2006	\$200,000.00	Claimant is not a FTDF Member nor is she otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to Meadow Creek Partners, LLC, Placer County Land Speculators, LLC, and Del Valle Capital Corporation, Inc.	Disallow in its entirety.
130	RDJ Investments	November 13, 2006	\$200,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Del Valle Capital Corporation, Inc..	Disallow in its entirety.
131	Richard N. Anderson TTE, Richard N. Anderson Separate Property	November 13, 2006	\$200,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Del Valle Capital Corporation, Inc.	Disallow in its entirety.

FTDF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Proposed Disposition
132	Craig Zager SEP IRA	November 10, 2006	\$65,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant through USA Commercial Mortgage Company to an unspecified borrower.	Disallow in its entirety.
138	James W. Shaw IRA	December 12, 2006	\$84,662.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant with respect to the Bethany Sunset project.	Disallow in its entirety.
139	Curtis R. & Terri L. Colagross	December 4, 2006	\$106,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to 6425 Gess Ltd.	Disallow in its entirety.

PLEASE TAKE FURTHER NOTICE that the hearing on the Objection will be held before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on January 31, 2007, at the hour of 9:30 a.m.

PLEASE TAKE FURTHER NOTICE that any response to the Objection must be filed by **January 24, 2007** pursuant to Local Rule 3007(b), which states:

If an objection to a claim is opposed, a written response must be filed and served on the objecting party at least 5 business days before the scheduled hearing. A response is deemed sufficient if it states that written documentation in support of the proof of

1 claim has already been provided to the objecting party and that the documentation will be
2 provided at any evidentiary hearing or trial on the matter.

3 If you object to the relief requested, you *must* file a **WRITTEN** response to this
4 pleading with the court. You *must* also serve your written response on the person who sent you
5 this notice.

6 If you do not file a written response with the court, or if you do not serve your
7 written response on the person who sent you this notice, then:

8 ! The court may *refuse to allow you to speak* at the scheduled hearing; and

9 ! The court may *rule against you* without formally calling the matter at the
10 hearing.

11 DATED: December 27, 2006

/s/ Andrew M. Parlen

Andrew M. Parlen, Esq.

Stutman, Treister & Glatt

Professional Corporation

Counsel to the Official Committee of Equity

Security Holders of USA Capital First Trust

Deed Fund, LLC